

REMARKS

By this amendment, claims 20, 27, and 33 are amended to more clearly define the features of those claims and claims 36 and 37 are canceled without prejudice or disclaimer.

Claims 20-35 are currently pending.

In the Office Action, the Examiner rejected claims 20-37 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent Application Publication No. 2001/0001863 to Shuster and U.S. Patent No. 6,317,782 to Himmel et al. (Himmel). Applicants respectfully traverse this rejection.

Claim 20 recites a combination including, among other things, "upon receiving the first request from the client computer, the server computer establishing a session by allocating a resource at the server computer, the resource including an identifier, and returning, to the browser at the client computer and in response to the first request, a predetermined close instruction, the predetermined close instruction carrying the identifier identifying the session at the server computer to be de-allocated when the identifier is returned from the browser upon unloading, the predetermined close instruction representative of a start of a communication session between the client computer and the server computer."

The Examiner alleges that Shuster at paragraph 0034 discloses the above-noted features of claim 20. Office Action, page 2. Specifically, the Examiner alleges that the script sent by the server of Shuster constitutes the predetermined close instruction recited in claim 20. Applicants disagree because Shuster's script **teaches away** from the "predetermined close instruction" recited in claim 20. Specifically, Shuster's script

merely controls the user's access to data during an exit procedure but does not de-allocate resources at the server. For example, Shuster states:

[0034] In typical Internet and other network transactions, the HTML frame data (or data in other suitable formats) downloaded from the provider computer 14 to the user computer 12 is accompanied by further software, such as browser script, for interacting with browser functions at the user computer. **Software features commonly included with such browser script include features for interacting with the browser software during an exit procedure, that is, when the user is exiting a web site or page.** As part of the exit procedure, the browser and the browser script software interact in a manner, as well known in the art, such that the browser script receives exiting instructions from the browser to close or dispose of additional computer resources that may have been accessed, such as, memory, graphic images or connections to data bases. **As described in more detail below, preferred embodiments of the present invention involve the inclusion of software routines, for example as part of (but not limited to) browser script, for controlling the user computer's access to further data (for example, further HTML files) during an exit procedure.** In example embodiments as described in further detail below, the user is, in effect, directed to one or more web sites or pages dictated by the browser script (or other suitable software), instead of, or in addition to, the site or page specifically selected by the user when exiting from the displayed site or page.

Shuster's paragraph 0034. Emphasis added. Shuster paragraph 0041 also describes operation of Shuster's script stating:

[0041] The software associated with the hidden frame, in effect, modifies or controls one or more of the browser functions, for example, the Back function (discussed below), such that the user computer accesses a predesignated site or page (and displays a predesignated frame) instead of accessing the site or page typically associated with the selected browser function.

Shuster, para. 0040.

Although Shuster provides a script to the browser to control browser function, Shuster's script is not returned to the browser at the client computer. Nor is it returned in response to the first request. Nor does Shuster's script carry an identifier identifying a session at the server computer to be de-allocated when the identifier is returned from

the browser upon unloading. Nor does Shuster's script represent a start of a communication session between the client computer and the server computer. Nor has the Examiner made any showing to the contrary.¹

For at least these reasons noted, Shuster fails to disclose or suggest at least the following features of claim 20: "upon receiving the first request from the client computer, the server computer establishing a session by allocating a resource at the server computer, the resource including an identifier, and returning, to the browser at the client computer and in response to the first request, a predetermined close instruction, the predetermined close instruction carrying the identifier identifying the session at the server computer to be de-allocated when the identifier is returned from the browser upon unloading, the predetermined close instruction representative of a start of a communication session between the client computer and the server computer."

Furthermore, for at least the reason that Shuster fails to disclose or suggest a "predetermined close instruction," Shuster also fails to disclose or suggest the following feature of claim 20: "upon unloading at the browser the predetermined close instruction received from the server computer, sending a second request from the client computer to the server computer to indicate initiation of the predetermined close instruction by the browser, the second request carrying the identifier and indicating to de-allocate the resource at the server computer, the predetermined close instruction, when received, preventing the browser from using content in a cache at the client computer, such that

¹ Applicants respectfully point out that the Examiner appears to be improperly ignoring the express language of claim 20. Applicants respectfully remind the Examiner that M.P.E.P. 2131 states "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

the browser uses content from the server computer, the predetermined close instruction including a time-out period representative of an idle time associated with a lack of content page requests from the client computer to the server computer, the server computer de-allocating the resource when the idle time reaches the time-out period, wherein upon unloading includes at least one of a closing of the browser and a navigating away to another page presented at the browser.”

Moreover, although Himmel discloses detecting Internet ad viewing, Himmel fails to cure the noted deficiencies of Shuster. Therefore, claim 20 and claims 21-26, at least by reason of their dependency from independent claim 20, are allowable over Shuster and Himmel, whether those references are taken alone or in combination, and the rejection of claims 20-26 under 35 U.S.C. § 103(a) should be withdrawn.

Regarding the motivation to combine, Applicants submit that one of ordinary skill in the art would not be motivated to make the Shuster-Himmel combination proposed by the Examiner. Applicants submit that Shuster **teaches away** from claim 20, as noted above.² As such, one of ordinary skill in the art would not be motivated to make the Shuster-Himmel combination proposed by the Examiner. Therefore, the rejection of claims 20-26 under 35 U.S.C. §103(a) as unpatentable over Shuster and Himmel should be withdrawn for this additional reason.

² MPEP §2141.02 further notes that “a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

Independent claims 27 and 33, although of different scope, include features similar to those noted above for claim 20. For at least the reasons given above with respect to claim 20, claims 27 and 33 are allowable over Shuster and Himmel, whether those references are taken alone or in combination, and the rejection under 35 U.S.C. §103(a) of claims 27 and 33, as well as claims 28-32, 34, and 35 at least by reason of their dependency from independent claims 27 and 33, should be withdrawn.

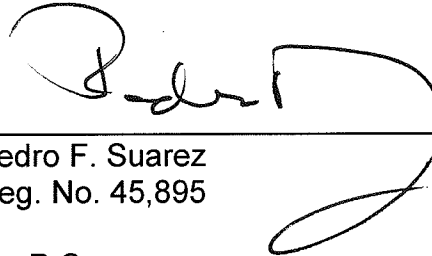
CONCLUSION

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner. Applicants submit that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Amendment should allow for immediate action by the Examiner. Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner continue to dispute the patentability of the pending claims.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

On the basis of the foregoing amendments, Applicants respectfully submit that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. No fee is believed to be due, however, the Commissioner is hereby authorized to charge any fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 34874-040NATL/2000P00016WOUS.

Respectfully submitted,



Date: 23 March 2009

Pedro F. Suarez
Reg. No. 45,895

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
3580 Carmel Mountain Road
Suite 300
San Diego, CA 92130
Customer No. 64280
Tel.: 858/314-1540
Fax: 858/314-1501